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| 10/549,439 | 07/26/2006 | Todd A. Eckert | 17303-62825 | 5580 |

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| EXAMINER | |
|---|---|
| SINGH, KAVEL | |
| ART UNIT | PAPER NUMBER |
| 3651 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 06/29/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/549,439 | ECKERT ET AL. | |
| | Examiner | Art Unit | |
| | KAVEL P. SINGH | 3651 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *18 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *41-44 and 56-67* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *41-44 and 56-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 41 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 lines 3 and 10 add the limitation of an inner diameter.

### *Response to Arguments*

The 35 U.S.C. 112 second paragraph rejection to claim 45 has been withdrawn.

Applicant's arguments filed 9/04/07 have been fully considered but they are not persuasive. Regarding claim 41, Applicant argues that Frank does not teach slippable rollers, but according to the definition of slippable (to move to cause to move smoothly from Webster's II Dictionary and the broadest interpretation), the rollers (24,25) as taught by Frank teaches conveyor rolls to rotate the selected series of conveyor rolls (C3 L5-10). Franks teaches the conveyor rolls 24 are driven together by driving chain 31 which is on the outer diameter of the roller 24. Torque is defined as the capability or tendency of a force for producing torsion (act of twisting or rotation) or rotation about an axis. The motor of Frank causes the rollers to rotate about an axis with one section at

one speed and another section at another speed creating two different torques in the system. Frank discloses this system reduces the overall length of the conveyor needed to move the series of glass sheets through several treatment stations and provides minimum marking on the glass sheet surfaces supported by the conveyor rolls by minimizing the proportion of glass sheet simultaneously engaged by rolls rotating at different rotational speeds (Abstract).

A recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987). It does not matter what articles Frank is conveying, it is the structure that determines the basis for the rejection.

For the foregoing reasons claims 41-45 stand rejected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41-43 and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank U.S. Patent No. 3,992,182.

Claim 41, Frank teaches a first section of roller shafts (24), each said shaft (24) of said first section driving a plurality of rollers each having an inner diameter (it is known to onr of ordinary skill that rollers have an inner and outer diameter) slippable relative to the outer diameter of the corresponding said shaft (24) (C4 L23-25) in response to a torque imposed by conveying the product, a first portion of the first section driving rollers (24) which slip on the corresponding said shaft at a first predetermined torque, a second portion of the first section driving rollers (25) which slip of the corresponding said shaft at a second predetermined torque, the second torque being greater than the first torque; and a second section of roller shafts, each said shaft of said second section driving at least one roller having an inner diameter fixed to an outer diameter of a corresponding shaft of the second section (25), the second section (25) adapted and configured for receiving products conveyed from the first section (Fig. 1).

Claims 42 and 43, Frank teaches the portion of the first section (24) has a length that is less than about the length of the product (C8 L20-25).

Claim 67, Frank teaches a first driving chain (31) placed along a side of the conveying path and parallel to the conveying path (Fig. 3a), said first chain (31) driving said first portion of said first section (24); a second driving chain (131) placed along a side of the conveying path and parallel to the conveying path (25), at least a portion of the length of said second driving chain (131) overlapping at least a portion of said first driving chain (31) (Fig. 3a) said second chain driving (131) said second portion of said first section

(24); and wherein at least one said roller shaft (24) of said first section has two ends and a driving wheel proximate to one end of said shaft (24); and said conveyor is adapted and configured to rotatably support said one roller shaft such that said driving wheel is capable of engaging said first chain (31) along the overlapping portion of the length and driving said one roller shaft (24), and said conveyor is adapted and configured to rotatably support said one roller shaft (24) such that said driving wheel is capable of engaging said second chain along the overlapping portion of the length and driving said one roller shaft (24) (C4 L24-30).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frank U.S. Patent No. 3,992,182 in view of Jabbusch U.S. Patent No. 3,894,627.

Claim 44, Frank teaches an infeed conveyor receiving conveyed products from the second section, but not as Jabbusch teaches providing the products to the product wrapper (C2 L9-12). It would have been obvious to one of ordinary skill in the art at the time of the invention to add a wrapper section as taught by Jabbusch into the invention of Frank to provide an additional working station and allow easy packaging for any article being transfered.

Claim 56,57,58, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank U.S. Patent No. 3,992,182 in view of Jabbusch U.S. Patent No. 3,894,627 in further view of Wielebski U.S. Patent 6,522,944.

Claim 56, Wielebski teaches an electronic controller (48) in order for controlling the speed of the second section (25) of Frank; and Frank teaches a sensor (38) providing to the controller a signal corresponding to the position of the conveying surface (C4 L65-67) of the infeed conveyor (22) as taught by Jabbusch; Wielebski teaches wherein said controller (48) for the controls the speed of the second section in response to the signal as taught by Frank. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a controller as taught by Wielebski into the invention of Frank to be able to transfer the articles with control and logic.

Claim 57, Frank teaches a first means (30) for driving the first portion (24), a second means (130) for driving the second portion (25), Wielebski teaches a third means (131) for driving the second section (C4 L30-35), and an electronic controller (271,272,273) operatively coupled to the first driving means (30), the second driving means (130) and the third means (131) of Frank. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a controller as taught by Wielebski into the invention of Frank to be able to transfer the articles with control and logic

Claims 58 and 63, Wielebski teaches the controller (48) into Frank who operates the second portion (25) and the second section (25) at substantially the same speed. It would be obvious to one of ordinary skill in the art to use a controller to operate the

conveyor at substantially the same speed as taught by Wielebski into the invention of Frank in order to transition the article from section to section.

Claims 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank U.S. Patent No. 3,992,182 in view of Albrecht U.S. Patent No. 3,391,520.

Claim 59, Frank does not teach as Albrecht teaches means for stopping (80) a product on (C7 L9-11) said second portion of said first section of Frank. It would be obvious to one of ordinary skill to use a stop block as taught by Albrecht into the invention of Frank in order to allow easy transitions from section to section.

Claim 60, Frank does not teach as Albrecht teaches said stopping means (80) is a product stop that blocks products on the conveyor (C7 L9-11). It would be obvious to one of ordinary skill to use a stop block as taught by Albrecht into the invention of Frank in order to allow easy transitions from section to section.

Claim 61, Frank does not teach as Albrecht teaches said stopping means includes a brake (120) for rollers (118) for stopping rotation of a plurality of slippable rollers (C9 L12-15). It would be obvious to one of ordinary skill to use a brake mechanism as taught by Albrecht into the invention of Frank in order to allow products to maintain order during conveyance.

Claim 62, Frank does not teach as Albrecht teaches said stopping means (83) includes pressing on the product from above (Fig. 13). It would be obvious to one of ordinary skill to use a stop from above as taught by Albrecht into the invention of Frank in order to allow products to maintain order during conveyance.

Claims 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank U.S. Patent No. 3,992,182 in view of Teramoto U.S. Patent No. 6,454,079. Claims 64 and 65, Frank does not teach as Teramoto teaches the conveying speed of the first portion is greater than the conveying speed of the second portion and less than the conveying speed of said first section (Fig. 3 Constant speed is section one and decelerating section if section 2). It would be obvious to one of ordinary skill to use a conveying speed greater in the first portion then the second as taught by Teramoto in order to allow ease into the wrapping section.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frank U.S. Patent No. 3,992,182 in view of Jabbusch U.S. Patent No. 3,894,627 in further view of Wielebski U.S. Patent 6,522,944 in further view of Albrecht U.S. Patent No. 3,391,520. Claim 66, Frank does not teach as Albrecht teaches an infeed conveyor (11) and a product wrapper (15,23), said infeed conveyor (11) receiving product from said second section (of Frank); wherein said electronic controller (included in 11 of Albrecht) adjusts said second driving means (130 of Wielebski) relative to said third driving means (131 of Wielebski so as to change the spacing between adjacent products being provided to said infeed conveyor (11).

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/
Supervisory Patent Examiner, Art Unit 3651